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In re Application of: MULLER, et al	:	
Application No.: 10/520,129	:	
PCT Application No.: PCT/EP03/05196	:	DECISION ON
Int. Filing Date: 16 May 2003	:	PETITION UNDER
Priority Date Claimed: 01 July 2002	:	37 CFR 1.137(b)
Attorney Docket No.: GRUNP44	:	
For: Regulation of the Water Balance in Fuel Cell	:	
Systems	:	
	:	

This decision is a response to Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)", which was filed on 11 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 16 May 2003, Applicant filed international application PCT/EP03/05196. The international application claims a priority date of 01 July 2002 and designates the United States. Pursuant to 35 U.S.C. 371 and 37 CFR 1.495, the thirty-month period for commencement of the national stage in the United States, and paying the required basic national fee, expired at midnight on 03 January 2005 (01 January 2005 being a Holiday and falling on a Saturday).

On 31 December 2004, Applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a request for immediate examination, and the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). However, no executed declaration or oath was provided at such time.

On 27 July 2005, Applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) advising Applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.66 or 37 CFR 1.68, identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper reply and advised that this time could be extended with a petition and payment of the appropriate extension of time fee.

One 12 June 2006, Applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing Applicant that the instant application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495.

On 11 July 2006, Applicant filed the instant petition to revive accompanied by, *inter alia*, the \$1,500 petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to Item (1), the required reply, i.e. an executed declaration in compliance with 37 CFR 1.66 or 37 CFR 1.68, in response to the "Notification of Missing Requirements", has been received.

With regard to Item (2), the appropriate petition fee of \$1,500 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), Applicant's statement that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" has been satisfied.

With regard to Item (4), a terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and Applicant's petition to revive is GRANTED.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision. Additionally, Deposit Account No. 501998 will be charged a \$130 surcharge for filing the oath or declaration after the thirty-month period.



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